3291

SUPREME COURT OF THE UNITED STATES.

No. 169.

THE UNITED STATES, APPELLANTS,

vs.

JOSÉ JOAQUIN ORTEGA, AND THE WIDOW AND HEIRS OF EDWARD STOKES, DECEASED.

APPEAL FROM THE DISTRICT COURT U. S. FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

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OFFICE OF THE BOARD OF COMMISSIONERS

To ascertain and settle the private land claims in the State of Cal'a.

Be it remembered, that on this twenty-fifth day of May, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of "José Joaquin Ortega et al.," for the place named "Santa Ysabel," was presented, and ordered to be filed and docketed with No. 239, and is as follows, to wit:

(Vide page 3 of this Transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

LOS ANGELES, *October* 27*th*, 1852.

In case No. 239 José Joaquin Ortega et al., for the place named "Santa Ysabel," the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H. Nos. 1, 2, 3, annexed thereto, was filed.

(Vide page 5 of this Transcript.)

LOS ANGELES, *November* 1*st*, 1852.

In the same case the deposition of Andres Pico, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 7 of this Transcript.)

SAN FRANCISCO, *February* 16*th*, 1853.

In the same case the counsel for the claimants presented an amended petition, which was ordered to be filed among the papers in the case.

(Vide page 4 of this Transcript.)

SAN FRANCISCO, *Sept.* 13*th*, 1853.

In the same case the deposition of J. J. Warner, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed.

(Vide page 8 of this Transcript.)

SAN FRANCISCO, *Sept.* 16*th*, 1853.

Case No. 239 was called, on motion of the counsel for the claimant; ordered at the foot of the docket.

SAN FRANCISCO, *October* 22*d*, 1853.

In the same case the deposition of J. J. Warner, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed.

(Vide page 9 of this Transcript.)

SAN FRANCISCO, *Aug.* 28*th*, 1854.

In the same case the deposition of Juan Foster, a witness in behalf of the claimants, taken before Commissioner Peter Scott, was filed.

(Vide page 10 of this Transcript.)

SAN FRANCISCO, *Sept.* 5*th*, 1854.

Case No. 239 was submitted on briefs, and taken under advisement.

SAN FRANCISCO, *Sept.* 19*th*, 1854.

In the same case Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 43 of this Transcript.)

And the following order was made, to wit:

(Vide page 45 of this Transcript.)

Petition.

To the Board of Commissioners for ascertaining and settling private land claims in the State of California:

José Joaquin Ortega, a Mexican by birth, and Edward Stoke, by naturalization, both citizens of, and residing in, the county of San Diego, State of California, respectfully represent to your honorable board, that they claim a certain tract of land called "Santa Ysabel," containing four (4) "sitios de ganado mayor," more or less, situated in the county of San Diego, in said State of California; that they claim the same in fee by virtue of a grant made to your petitioners, under the authority of the Mexican government, by Don Manuel Micheltorena, governor and general commanding the department of the Californias, bearing date Monday, 9 of November, 1844, and approved by the territorial deputation on the 25th day of June, 1845.

Your petitioners would further represent, that judicial possession of said tract of land was given to the said grantees on the 1st day of December, A. D. 1844, and the boundaries thereof designated and defined; and that they have been in the peaceable possession thereof ever since; and that they have no knowledge of any interfering claim to the said parage of "Santa Ysabel."

Your petitioners present herewith this espediente, containing the original grant of said land, and the approval of the territorial

deputation in the Spanish language, together with the translations of the same, and other documents relating thereto, and will make further proof of title if required by the board.

Your petitioners pray your honorable board to take into consideration their claim to said tract of land, and decree their title to be valid and confirm the same.

And your petitioners will ever pray.

SUTHERLAND & CARR,
Attorneys for Petitioners.

Filed in office, May 25th, 1852.

GEO. FISHER, *Sec.*

Supplemental Petition.

To the Board of Commissioners for ascertaining and settling the private land claims in the State of California:

Your petitioners, José Joaquin Ortega, a Mexican by birth, of the county of San Diego, in the State of California, and Refigio Stokes, widow of Edwardo Stokes, deceased, and Adolpho, Alfredo and Edwardo Stokes, minor children of the said Edwardo Stokes, deceased, respectfully represent to your honorable board, that they claim a certain tract of land, called "Santa Ysabel," containing four sitios de ganado mayor, more or less, situated in the county of San Diego, in said State of California; that they claim the same by virtue of a grant made to the said José Joaquin Ortega and Edwardo Stokes, during his lifetime, under the authority of the Mexican government, by Manuel Micheltorena, governor of the department of Californias, bearing date at Monterey, the 9th day of November, 1844, and approved by the territorial deputation on the 25th day of June, 1845.

Your petitioners further represent, that juridical possession of said tract of land was given to the said original grantees, on the first day of December, 1844, and the boundaries thereof designated and defined, and that they and those claiming under them have been in the peaceable possession thereof ever since; and that they have no knowledge of any interfering claim.

Your petitioners pray your honorable board to take into consideration their claim to said tract of land, and decree their title to be valid, and confirm the same.

And your petitioners will ever pray, &c.

SUTHERLAND & CARR,
Att'ys for Claimants.

I assent to the filing of this amended petition.

R. GREENHOW,
U. S. Law Agent.

Feb'ry 16th, 1853.

Filed in office, Feb'y 16th, 1853.

GEO. FISHER, *Sec.*

Deposition of Abel Stearns.

LOS ANGELES, *October 27th*, 1852.

On this day, before Commissioner Hiland Hall, came Abel Stearns, a witness in behalf of the claimants, José Joaquin Ortega et al., petition No. 239, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimant, the witness testified as follows:

My name is Abel Stearns; my age is fifty-four years, and I reside in Los Angeles. I have resided in California over twenty-three years.

I am acquainted with the handwriting and signatures of Manuel Micheltorena and Manuel Jimeno, and of Pio Pico and José M. Covarrubias.

A paper is now shown me purporting to be a grant to José Joaquin Ortega and Edward Stokes, of a tract of land called Santa Isabel, and dated November 9, 1844. The signatures of said Micheltorena and Jimeno, appearing on said paper, I believe to be genuine.

Said paper is hereto annexed, and marked H. H. No. 1.

A paper is now shown me, purporting to be a certificate of approval by the departmental assembly, of grants of land called "Valle de Pamo" and "Santa Ysabel," dated 7th of July, 1845. The signatures of said Pio Pico and said Covarrubias, attached to said paper, I believe to be genuine.

Said paper is hereto annexed, and marked H. H. No. 2.

I am acquainted with the handwriting and signatures of Juan M. Marron, José M. Orasco, Santiago E. Arguello.

A paper is now shown me, purporting to be proceedings giving judicial possession of the two last mentioned tracts of land, dated in November and December, 1844.

The signatures attached to said paper, in several places, of the said Marron, Orasco and Arguello, I believe to be genuine.

Said paper is hereunto attached and marked H. H. No. 3, being Exhibit D.

ABEL STEARNS.

Sworn and subscribed to before me.

HILAND HALL, *Com'r.*

Filed in office, Oct. 27th, 1852.

GEO. FISHER, *Secretary.*

Deposition of Andres Pico.

LOS ANGELES, *November 1st*, 1852.

On this day, before Com'r Hiland Hall, came Andres Pico, a witness in behalf of the claimants, José Joaquin Ortega et al.,

petition No. 239, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants, the witness testified as follows:

My name is Andres Pico; my age is forty-one years; I reside in the city of Los Angeles. I am acquainted with the land called "Santa Isabel," and I have known it as a rancho since the year 1832. It was then in the occupancy of the mission of San Diego; Joaquin Ortega and Edward Stokes occupied the rancho from the latter part of the year 1844, or the beginning of 1845, until the year 1847, since which time I have not been at the place. *There* had a stock of horses and cattle there; had houses, and one of their families lived there, and they cultivated the land, raising corn, wheat, beans and potatoes; they had also a vineyard there.

Question by the Associate Law Agent.

Had the priests of the mission authority to dispose of the land of the mission in 1843 or 1844?

Answer. When a party wished to obtain lands claimed by a mission, he applied to the governor, and the matter was referred to the priest of the mission for a report, whether it could be granted or not; and when the priest had reported, the governor acted upon it as he chose, either paying respect to it or not, in his discretion.

ANDRES PICO.

Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office, Nov'r 1st, 1852.

GEO. FISHER, *Sec.*

Deposition of J. J. Warner.

OFFICE OF COMMISSIONERS OF LAND CLAIMS IN CALIFORNIA.

This day, before Commissioner Thompson Campbell, came J. J. Warner, a witness in behalf of claimants, José Joaquin Ortega et al., No. 239, who, after being duly sworn, deposed as follows:

What is your name, age, and place of residence?

My name is J. J. Warner; I am forty-five years of age, and I reside at San Diego.

Do you know whether Edward Stokes is dead; and if so, when did he die?

He is dead, and died in the early part of 1847, leaving a wife and three children; the wife's name is Maria del Refugio, and the names of the children are as follows: Adolfo, Edwardo and Alfredo.

Associate law agent present.

J. J. WARNER.

Sworn to and subscribed before me this 13th day of September, A. D. 1853.

THOMPSON CAMPBELL, *Com'r.*

It is hereby stipulated, that this deposition may be read in evidence in case No. 332, Valle de Pamo, as entered upon the trial docket of the board of land commissioners.

San Francisco, Cal., September 13th, 1853.

ROBERT GREENHOW,
Associate Law Agent.
THOS. W. SUTHERLAND,
Att'y for Claimant.

Filed in office, Sept. 13th, 1853.

GEO. FISHER, *Sec.*

Deposition of J. J. Warner.

OFFICE OF THE BOARD OF COMMISSIONERS, &c.

This day, before Commissioner Thompson Campbell, came J. J. Warner, a witness in behalf of claimants, José Joaquin Ortega et al., No. 239, who, after being duly sworn, deposed as follows:

What is your name, age, and place of residence?

My name is J. J. Warner; I am forty-five years of age, and I reside at San Diego.

Do you know the ranch of Santa Ysabel; and if so, what do you know of its occupation by the grantees in this case?

I know said rancho; I know that immediately after it was granted, I think in the year 1845, they moved their families on the ranch; they built a dwelling-house, I think in the same year, which was occupied by them and their families. I believe they were living there some little time before the grant was made. They had horses, cattle and sheep upon it, and cultivated fields.

Associate law agent present.

J. J. WARNER.

Sworn to and subscribed before me this 22d of October, A. D. 1853.

THOMPSON CAMPBELL, *Com'r.*

Filed in office, October 22d, 1853.

GEO. FISHER, *Sec.*

Deposition of John Forster.

UNITED STATES OF AMERICA,
State of California, ss.

SAN FRANCISCO, *August 28th*, 1854.

This day came John Forster, a witness in behalf of the claimants, José Joaquin Ortega and Edward Stokes, in case No. 239 on the docket of the board of U. S. land commissioners of said State, before Peter Lott, a commissioner for taking testimony to be used before said board, and said witness being sworn, deposed as follows.

The associate U. S. law agent present.

Questions by Sutherland, Attorney for Claimant.

1st question. What is your name, age, and place of residence?

Answer. My name is John Forster; my age 38 years; my residence Los Angeles county, California.

2d question. Are you acquainted with the rancho of Santa Ysabel, in San Diego county? if yea, state how long you have known it, and what you know of its boundaries.

Answer. I am acquainted with the ranch named; I have known it ten years; it is bounded on the east by a gap in the Santa Ysabel mountains, known by the name of "Valcan," on the north by the Carriso (Cane swamp,) on the south by a range of hills, to the point called "Salvia," a sage hill, on the west by an Indian village or rancheria, under the chief Juan Pablo.

3d question. What is the shape and extent, or quantity of land, embraced within the boundaries you have named?

Answer. The character of the place is that of a valley in the shape of a half moon, intersected in places by small hills; it contains somewhere between 4 and 5 leagues of land.

4th question. Are the boundaries you have described well known, and generally recognised by the neighbors?

Answer. They are natural boundaries, easily defined, and I have never known of any dispute about them.

5th question. State what you know about the occupation, cultivation, and improvement of said rancho?

Answer. I was there in the year 1845; the families of Edward Stokes and Joaquin Ortega were then living on the rancho; they had repaired and built additions to some adobe buildings there in which they lived; there were corrals there for cattle and for sheep; there were large quantities of land on the place under cultivation, and they had horses, cattle, sheep and hogs there, in considerable numbers; I cannot tell how many, but the ranch was well stocked; this was in the summer of 1845.

Cross-examined by United States Associate Law Agent.

1st question. Do you know whether the boundaries you have mentioned conform to the description in the grant, and how and from whom did you learn these boundaries?

Answer. They do conform to the description in the grant; I have seen the grant, and have learned the boundaries from my intimacy with the occupants, and from having been there and seen them.

2d question. Are the boundaries you have mentioned so connected as to enclose the land without any indefinite gaps or creeks in said boundaries?

Answer. Yes, they have; you have to pass over some hills, but not so as lose sight of the general outline of the land.

3d question. Is the Indian village now there; if yea, how long has it existed there?

Answer. It is now there, and has been in existence ever since I knew the place.

4th question. How did you arrive at the description in the claim of these boundaries?

Answer. By reading the grant, and travelling frequently over the land.

5th question. Did you ever measure the land?

Answer. I never did, though I conversed with those who did.

JOHN FORSTER.

Subscribed and sworn to before me, this 28th day of August, A. D. 1854.

PETER LOTT, *Com'r.*

Filed in office Aug. 28th, 1854.

GEORGE FISHER, *Sec.*

[1 S. D. K.] 1844.

Espediente promovido por D. José Joaquin Ortega y Dn. Edwardo Stoke, en solicitud del parage nombrado "Santa Ysabel."

No. 391.

[2 S. D. K.]

Exmo. Sor: José Joaqn. Ortega y Edwardo Stoke, el primero Mejicano por nacimiento, y el segundo por naturalizacion, vecinos de la la jurisdiccion de San Diego, en esse departamento de California, ante V. E. respetuosamente en la mejor forma y como mas haya lugar en derecho decimos: que conf' ha 18 de Junio ultimo, elevamos á la superiores manos de V. E. una solicitud en la que con los requisitos de estilo suplicabamos el que se nos concediese el rancho á parage de temecala perteneciente á la mision de San Luis Rey, por combenir en aquella ver á las mejores de nuestros intereses y sossen de las numerosas familias que la naturaliza tiene bajo nuestra fedula. Sabedores hoy que hay otro pretendiente de higuales ó mayores meritos que los nuestros cuya [3 S. D. K.] justicia reconocemos, nos ha parecido conveniente retirar nuestra instancia indicada cediendo por consiguiente en favor del otro solicitante el derecho de antiguiedad y demas que fuese cuestionable para que ese gobierno superior sin el inviamiento citado obre conforme le paresea de justicia.

Teniendo siempre presente la mantencion tacita que nos demandan nuestras obligaciones domesticas, nuevam'te solicitamos de la venignidad y recta administracion que notoriam'te caracterisan á V. E. el que se nos concedad legitima propiedad el rancho de Santa Ysabel, que reconoce á la de la mision de San Diego, con los terrenos que por de el siempre se han respetado constantes de cuatro sitios de ganado mayor poco mas ó menos en concepto de hallarce absolutam'te [4 S. D. K.] valdio y sin probabilidad de que la

mision pueda cultivarlo en lo adelante como lo acreditará el informe de su R. P. Ministro y del juez respectivo que devidam'te acompañamos.

Nuestra integridad Exmo. Sor. es bastante clara y manifiesta cuando nos hemos desprendido del derecho que podia tocarnos con respecto al rancho de Temecula, conformaba igualmente con la confecion genuina de R. P. Mtro. de la mision de San Diego F. V. Vicente Oliva, muy conocido por sus virtudes é integridad en esta clase de negocios, y por lo mismo no vacilamos en que el gobierno departamental confiado á la persona de V. E. nos agraciará con lo que dejamos solicitado.

Por tanto á V. E. rendidamente suplicamos se digne decretar de conformidad con nuestro pedido dando las ordenes que crea convenientes para que obtegamos el titulo y pocesion [5 S. D. K.] del repesido terreno. Suplicamos igualm'te qe. se nos dispense el uso del papel comun por no haber en el lugar del sello que corresponde. Turamos noser de malicia y lo necessario, &c.

Angeles, Octubre 8, de 1844.

JOSÉ JOAQN. ORTEGA.

MONTERREY, *Octbe.* 18, *de* 1844.

Informe el S. scrio. del despacho visto los informes á no ser que para.

MECHELT'A.

SENOR GOBERNADOR: En la presidente solicitud de los Senores Ortega y Stokes, se acompanan las informes muy favorables para se manifiesta que en el terreno hay una viña y un jacal que el padre mutro sede á favor de los solicitantes por el numero de ciento cincuenta vacas que distribuyo a los indios de San Diego.

La E. asamblea departamental ha dado un decreto sobre fincas, y tierras de las misiones y V. E. en uso de sus facultades resolverá lo que tuviese por conveniente. Fecha la misma.

MANUEL JIMENO.

[6 S. D. K.]

Digo yo F. V. Vicente Pascual Oliva, ministra actual de la mision de Sn. Diego que en virtud de no poder fomentar el rancho de Sta. Ysabel perteneciente de esta mision é de esta comunidad todo derecho al S'or D. Joaquin Ortega y D. Eduardo Stock la legitimidad del mencionado parage solicitando del superior govierno departamental la comprobacion de el parage lo disfruten en pacífica posesion. No ecsistiendo en aquella finca mas paredes ya des exacadas y dos vinitas de un corso numero de sepas en estado regular lo que tambien cede esta mision en favor del S'or Ortega; por haber el tambien dejado á veneficio de la mision el numero de ciento cincuenta bacas de su propiedad que mato á beneficio de los neofitos de

dicha mision. Y en vista de todos estos beneficios suplica se f. s. el que se firma, se digne darle todo el credito y aprovacion en el derecho que cede esta comunidad en favor de los ya referidos señores dejando unicamente en la legitima posesion de sus tierritas que por si cultivan para su beneficio el pegueño numero de indigenas existentes en aquel lugar.

Mision de San Diego, Agosto 1o, de 1844.

F. V. VICENTE PASCUAL OLIVA.

Digo yo Juan Maria Marron juez 1o. de San Diego, en consecuencia á la presente confesion q'e hace el R. P. Ministro del mismo nombre á los Señores Ortega y Estoc del rancho de Santa Ysabel perteneciente á la mision m'm en que dise soliciten del superior govierno departamental la aprovacion de su disposition para que lo disfruten, libre y espontaneamente en pacifica posecion y en obsequio de mi obligacion dice converdad que al efecto el mencionado parage se haya enteram'te en essado de ruina no existiendo en el mas de un jacal [7 S. D. K.] bassante arruinado y dos vinitas las que ne pasaran del numero de dos mil y tantas sepas las que tambien cede el R. P. Ministro, al S'or Ortega como en compensacion de ciento y cincuenta Bacas de Bientre de su propiedad que mató que mató á beneficio de la comunidad por donde el parage puede ser consedible á los solicitantes y mas ciendo un punto fronteriso del departam'te que deve estar cubierto por unos hombres honrrados los que en todo tiempo podran serle utiles en todo caso ofrecido. Es cuanto puedo informar sobre el particular en obsequio de la verdad.

Puerto de San Diego, Agosto 2 de 1844.

JUAN MA. MARRON.

[8 S. D. K.]

MONTERREY, *Nov'e* 8, *de* 1844.

Espidace el titulo esprerando las condiciones que diere el padre de la mision de S. Diego y ofrecen los S. S. Ortega y compañero.

MICHELT'A.

MONTERREY, 9 *de Noviembre, de* 1844.

Vista la peticion conque da principio este espediente, los informes que aparecen con todo lo demas que se tuba presente y de ver convino de conformidad con las leyes y reglamentos de la materia; declaro á los Señores D. José Joaq'n Ortega y D. Eduardo Stok, duenos en propiedad del parage nombrado Sta. Ysabel, colindante con San José en el Punto del Carrisito, con el Bolcan y Tecomaca, con la Ballena; en estencion de cuatro sitios de ganado mayor poco mas ó menos. Librese el correspondiente despacho tomese razon en el libro respectivo y dirijase este espediente á la ex'ma asam-

blea departamental para su aprovacion. El ex'mo S. gobernador asi lo mandó, decretó y firmó de que doy feé.

[9 S. D. K.]

El C. Manuel Micheltorena, General de Brigada del Ejercito Mejicano, Ayudante General de la Plana Mayor del mismo, Gobernador, Comandante General é Ynspector del Departamento de las Californias.

Por cuanto el C. José Joaq'n Ortega, Mejicano por nacimiento y D. Eduardo Stocko, Mejicano, por naturalization han pretendido para sus beneficios personales y el de sus familias el terreno conocido con el nombre de Santa Ysabel, colindante con San José, en el Punto del Carricito, con el Bolcan y Tecomaca, con la ballena practicadas previam'te las diligencias y averiguaciones convenientes segun lo dispuesto por leyes y reglam'tos, usando de las facultades que me son conferidas á nombre de la nacion Mejicana, he venido en concederle el terreno mencionado declarando la propiedad de el por las presentes letras sujetandose á la aprobacion de la E. Asamblea Departamental y bajo las condiciones siguientes:

1a. Dejaran libres las tierras de labor que actualm'te ocupan los indigenas de San Diego, y mas dejaran á beneficio de la mision las ciento cincuenta bacas que facilito el S'or Ortega, para la comunidad de los indigenas del mismo.

2a. No podran venderlo, enagenarlo ni hipotecarlo, imponer censo vinculo fianza hipoteca ni otro gravamen alguno, ni podra donarlo.

3a. Podran cercarlo sin perjudicar travecias, caminos y servidumbres, lo disfrutaran libre y esclusivamente destinandolo al uso o cultivo que mas le acomode pero dentro de un año fabricara casa y estará habitada.

[10 S. D. K.] 4a. Cuando se les confirme la propiedad solicitaran del juez respectivo que les de la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos, en cuyos pondran á mas de sus mojoneras algunos arboles frutales de alguna utilidad.

5a. El terreno de que se hace mencion es de cuatro sitios de ganado mayor, poco mas ó menos segun demuestran los documentos respectivos.

El juez que diere la posecion lo hara medir conforme a ordenanza que dando el sobrante que resulte a la nacion para los usos convenientes.

6a. Si contraviniere á estas condiciones perderan su derecho al terreno y sera denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon en el libro respectivo y se entreque a los interesados para su resguardo y demas fines.

Dado en Monterrey, á nueve de Noviembre, de mil ochocientos cuarenta y cuatro.

MANUEL MICHELTORENA.

MANUEL JIMENO, *S'rio.*

Queda tomada razon de esta concesion en el libro respectivo a fojas 11.

JIMENO.

[11 S. D. K.]

EX'MO S'OR: José Joaq'n Ortega y Eduardo Stockes, vecinos de la demarcacion de San Diego, ante V. E. en la mas bastante forma y como mas haya lugar en derecho, conparecemos y decimos, que teniendo concedido pr. el superior govierno del departamento los parages de Santa Ysabel y Valle de Pamo, adjuntamos los titulos, de dichos parages para que en vista de V. E. se debe a la ex'mo junta departamental haber si tiene a bien aprobarlos como requisito indispensable, y para mas seguridad de nuestros intereses. Por tanto.

A. V. E. Suplicamos haya como pidimos en lo que recibiremos gracia jurando no ser de malicia y lo necesario, &c. Sirbiendose admitir la presente en papel comun por falta del sellado respectivo.

JOSE JOA'N ORTEGA.

EDWARDO STOCKES.

[12 S. D. K.]

ANGELES, *Junio* 20, *de* 1845.

Dado cuenta a la exma. asamblea en secion de hoy con esta se mando pasar a la comision de terrenos valdios acompanando los espedientes respectivos.

PIO PICO, *Presidente.*

AGUSTIN OLVERA, *S'rio.*

[13 S. D. K.]

La comision de terrenos valdios se ha impuesto con el detenimiente necesario de los espedientes promovidos a consecuencia de las solicitudes hechas por los ciudadanos Mejicanos por nacimiento José Joaq'n Ortega y por naturalizacion, Eduardo Stockes en pretencion de los parages conocidos con los nombres de Valle de Pamo y Santa Ysabel los cuales se les concedieron por el superior govierno del departamento en titulos librados el 1o con f'ha 5 de Noviembre de mil ochocientos cuarenta y tres y el 2o con la de nueva de Noviembre de mil ochocientos cuarenta y cuatro y resultando del examen equitado por la comision que las espresadas concesiones fueron hechas a virtud de lo que sobre lo particular disponer las leyes esta sujeta a la declaracion de V. E. la siguiente proposicion.

Se aprueban las concesiones hechas en favor le los ciudadanos Mejicanos por nacimiento José Joaq'n Ortega y por naturalizacion,

Eduardo Stock de los parages nombrados Valle de Pamo y Santa Ysabel concedidos en propiedad por el superior govierno del departamento en titulos librados el 1o con f'ha 5 de Nov'bre, de 1843, y el 2o con la de 9 de No'bre, de 1844, y ambos concesiones en estencion de ocho sitios de ganado mayor componiendose cado uno de cuatro sitios de entera conformidad con la ley de 18 de Agosto, de 1824, y el articulo 5o del reglamento 21 de Noviembre, de 1828.

[14 S. D. K.] Sala de comisiones en la ciudad de Los Angeles, Junio 23, de 1845.

FRAN'CO DE LA GUERRA.

YGNACIO DEL VALLE.

ANGELES *Junio* 25, *de* 1845.

En secion de este dia se aprovo por la exma. asamblea departamental la proposicion del dictamen antecedente; mandando se de vuelva las espedientes originales al Exmo. Sor. Gobernador para los fines que corresponde.

AGUSTIN OLVERA. PIO PICO, *Presidente.*

En Julio, '45, se estendio a los interesados el correspond'te comprovante del acuerdo de 25 de Junio, que antecede.

COVARRUBIAS, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the fourteen preceding and hereunto annexed pages of tracing paper, numbered from one to fourteen inclusive, and each of which is verified by my initials (S. D. K.) exhibit true and accurate copies of certain documents on file, and forming part of the said archives in this office.

In testimony whereof I have hereunto signed my name officially, and affixed my private seal (not having a seal of office) [L. S.] at the city of San Francisco, Cal., this 14th day of May, 1852.

SAMUEL D. KING,
Surveyor Gen'l Cal.

Filed in office, May 25th, 1852.

GEO. FISHER, *Sec.*

Doc. annexed to the Deposition of Abel Stearns.

Sello primero cuatro pesos: Habilitado provisionalmente por la aduana maritima del puerto de Monterrey, en el departamento de las Californias para los años de mil ochocientos cuarenta y cuatro y mil ochocientos cuarenta y cinco.

PABLO DE LA GUERRA.

MICHELTORENA.

[L. S.]

El Ciudadano Manuel Micheltorena, General de brigada del ejercito Mejicano, Ayudante Gral. de la Plana Mayor del mismo, Gobernador, Comandante G'ral é Inspector del Departam'to de las Californias.

Por cuanto el ciudadano José Joaq'n Ortega Mejicano por nacimiento y D. Eduardo Stocs Mejicano por naturalizacion han pretendido para sus beneficios personales y el de sus familias el terreno conocido con el nombre de Sta. Ysabel y Colindante con San José en el Punto del Carrisito, con el Bolcan y Tecomaca con la Ballena practicadas previam'te las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos usando de las facultades que me son conferidas á nombre de la nacion Mejicana he venido en concederle el terreno mencionado declarando los la propiedad de el por las presentes letras sujetandose á la aprovacion de la exma. asamblea departamental y bajo las condiciones siguientes:

1a. Dejaran libre las tierras de labor que actualmente ocupan los indigenas de San Diego y á mas dejaran á beneficio de la mision las ciento cincuenta vacas que facilito el Sr. Ortega para la comunidad de los indigenas de la misma.

2a. No podran venderlo enagenarlo ni hipotecarlo, imponer censo, vinculo fianza ni otro gravamen alguno ni aun donarlo en manera alguna.

3a. Podran cercarlo sin perjudicar las travesias, caminos y servidumbres; lo disfrutaran libre y esclusivamente destinandolo al uso ó cultivo que mas le acomode pero dentro de un año fabricará casa y estara habitada.

4a. Cuando se les confirme la propiedad solicitaran del juez respectivo que les de la posesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites, pondran á mas de sus majoneras algunos arboles frutales, ó silvestres de alguna utilidad.

5a. El terreno de que se hace donacion es de cuatro sitios de ganado mayor, poco mas ó menos segun demuestran los documentos respectivos. El juez que diere la posecion lo hará medir conforme á ordenanza quedando el sobrante que resulte á la nacion para los usos convenientes.

6a. Si contraviniere á estas condiciones perderan su derecho al terreno y será denunciable por otro.

En consecuencia mando que sirviendole de titulo el presente y teniendose por firme y valedero se tome razon, de el en el libro respectivo, y se entreque á los interesados para su resguardo y demas fines. Dado en Monterrey, á nueve de Noviembre, de mil ochocientos cuarenta y cuatro.

MAN'L MICHELT'A.

MAN'L JIMENO, *S'rio.*

Queda tomada razon de este titulo en el libro respectivo á fojas 11.

JIMENO.

Filed in office, Oct'r 27th, 1852.

GEO. FISHER, *Sec'y.*

[Doc. H. H. No. 2.]

Pio Pico, 1o Vocal de la Exma. Asamblea y Gobernador Interino del Departamento de las Californias.

La exma. asamblea departamental en secion del dia 25 de Junio del corriente año se serviá acordar lo siguiente.

Se aprueba las conseciones hechas en favor de los ciudadanos Mejicanos por nacimiento D. José Joaq'n Ortega y por naturalizacion D. Eduardo Stockes de los parages nombrados Valle de Pamo y Sta. Ysabel, concedidos en propiedad por el superior gobierno del departamento en titulos librados el 1o con f'ha 5 de No'bre de 1843 y el 2o con la de 9 de No'bre, de 1844, y ambos concesiones en estencion de ocho sitios de ganado mayor componiendose cada uno de cuatro sitios. De entera conformidad con la ley de 18 de Agosto de 1824 y art'o 5o del reglamento de 21 de No'bre de 1828.

Y para resguardo de los interesados se les estiende el presente en papel comun por falta del sellado en la ciudad de los Angeles á siete de Julio de mil ochocientos cuarenta y cinco.

PIO PICO.

JOSE MA. COVARRUBIAS, *S'rio.*

Filed in office October 27th, 1852.

GEO. FISHER, *Sec'y.*

Translation "C."

MOST EXCELLENT SIR: José Joaquin Ortega and Edward Stoke, the first a Mexican by birth and the second by naturalization, being residents of the jurisdiction of San Diego, in the department of California, come before your excellency respectfully, in due form of right, and state, that on the 18th of July last we transmitted to the superior hands of your excellency a petition, wherein, in the usual manner, we requested that you would grant to us the rancho or "paraga" of Temecula, belonging to the mission of San Luis Reys, without a view at that time of bettering our interests, and that of our numerous families that nature has placed under our protection.

We are well aware that there is now another aspirant for the same of equal or better merit than ourselves, the justice of which we acknowledge as having appeared proper. Wherefore we withdraw our aforementioned petition, yielding, in consequence thereof, in favor of the other petitioner, the right of priority; and further, that it would be a question as to whether this superior government could act conformably to justice without the aforesaid circumspection.

Keeping always in view the maintenance required of us by our domestic obligations, we request anew the kindness of heart and correct administration which is notoriously characteristic with your

excellency, that you will give us legitimate ownership of the rancho of Sta. Ysabel, recognised as the mission of San Diego, with lands which has always been respected by its consisting of "cuatro sitios de ganado mayor," a little more or less, in virtue of its being absolutely vacant, and there being no probability that the mission will cultivate it, as will be accredited by the confirmation of its "religioso padre muestro," and that of the respective magistrate that duly we accompany.

Our integrity, most excellent sir, is sufficiently clear and manifest, when we have relinquished that right that he might have had respecting the rancho of Temecula, this being equally confirmed, equally by the genuine confession of the R. P. Mtro. of the mission of San Diego, Mr. Vicente Oliva, very well known for his many virtues and integrity in this class of business, and for the same we are convinced that the departamental government, confided in the person of your excellency, will favor us with that we have petitioned for.

We therefore humbly request that your excellency will deign to declare conformably to our request, giving such orders as you should think convenient, in order that we may obtain the title and possession of the land mentioned.

We request equally that you will excuse our having used common paper, there being none stamped as corresponds in this place; swearing that we do not this from malice, but for necessary purposes.

Angeles, Oct. 8th, 1844.

JOSE JOAQUIN ORTEGA.

Take information from the secretary of the despatch, I having seen the foregoing, in order so that it may seem in other cases when necessary.

Monterey, Oct. 18th, 1844.

MICHELT'A.

I, Vicente Pascual Oliva, actual minister of the mission of San Diego, hereby state, that in consequence of there not being any possibility of improvement of the ranch of Sta. Isabel, belonging to this mission, this community cedes all right thereto to Messrs. Joaquin Ortega and Edward Stocks, and gives legitimacy to the mentioned "parage," requesting that the superior departmental government will approve thereto, in order that they may enjoy it in quiet possession.

There does not exist on the said premises more than a few tumbling walls, and two small vines, with a small number of in an ordinary condition, all of which this mission cedes in favor of M. Ortega, he having left for the benefit of the said mission the number of one hundred and eighty head of cattle of his own property, which he had killed for the benefit of the neophytes of said mission.

And in view of all these benefits, I, the undersigned, request that your excellency will deign to give it due credit, and approbation to the right that this community cedes, in favor of the forementioned gentlemen, only leaving the small bands of the natives that remain in the place, in their possession, for their cultivation and benefit.

Mission of San Diego, Aug. 4, '44.

F. VICENTE PASCUAL OLIVA.

I, Juan Maria Morrow, 1st magistrate of the port of San Diego, state, that in consequence of the present grant made by the priests of the mission to Messrs. Ortega and Estoc, of the ranch of Sta. Ysabel, belonging to the said mission, in which he says that they solicit of the superior departmental government its approbation, so that by its disposition they can enjoy the same freely and spontaneously, in quiet possession, and in obsequy of my obligation, I truly state that the mentioned "parage" is now entirely in this condition, and in a state of ruin. There does not exist there more than one house, completely ruined, and two small vines, with two thousand and 600 , all of which the R. P. Mtro. has yielded to Mr. Ortega, in rewarding him for one hundred and fifty head of cattle of his own property, which he killed for the benefit of the community.

This place might be granted to the petitioners, it being a frontier portion of this department, which should be occupied by sure honorable men, who would at all times be useful, whenever an opportunity offered itself.

This is all that I can inform upon this subject, in obsequy of the truth.

Port of San Diego, August 3d, 1844.

JUAN MA. MORROW.

MOST EXCELLENT GOVERNOR: To the foregoing petition of Messrs. Ortega and Stokes there accompanies some very favorable information, by which it is made shown, that on the land there is a vine and a cane house; that the padre mtro. cedes in favor of the petitioners for the number of one hundred and fifty head of cattle, which he distributed amongst the Indians of San Diego.

The most excellent departmental assembly has given a decree upon properties and lands of the missions, and your excellency, by virtue of your faculties, will resolve upon it, as you shall deem convenient.

Dated the same. MANUEL JIMENO.

MONTEREY, *8th November*, 1844.

Expedite the title, expressing in it the conditions stated by the padre of the mission of San Diego, and deliver it to Messrs. Ortega and his companion. MICHELTORENA.

MONTEREY, *9th November*, 1844.

Having seen the petition at the commencement of this espediente, and it appearing that all the information set forth are strictly in conformity with the laws and regulations on the subject, I hereby declare that Messrs. Don José Joaquin Ortega and Don Edwardo Stockes are owners in themselves of the "parage" called "Sta. Isabel," bounded by San José, in the "Punto del Carricito," with the Balcan y Tecomaca, and with the Ballena, extending four "sitios de ganado mayor," a little more or less.

. Deliver the respective title, and direct the patent to the most excellent departmental assembly for its approbation.

The most excellent governor thus orders, decrees, and signs, to which I give faith.

The citizen Manuel Micheltorena, Brigadier General of the Mexican Army, Adjutant General of the Staff of the same, Governor, Commandant General, and Inspector of the Department of California.

Forasmuch that the citizen José Joaquin Ortega, a Mexican by birth, and Mr. Edward Stocks, a Mexican by naturalization, have solicited for their personal benefit, and that of their families, the land known by the name of St. Isabel, surrounded by San José, in the Punto del Carristo, with the Balcan y Kcomaca, with the Ballena, the previous measures and investigations having been made according to the disposition and laws in relation to the subject, in use of the faculties conferred upon me by the Mexican nation, I have concluded to grant to them the land mentioned, declaring it to be their property by these presents, subject to the approbation of the most excellent departmental assembly, under the following conditions:

1st. They will leave free the land, laboring, actually occupied by the natives of San Diego; and further, they will leave for the benefit of the mission the one hundred and fifty head of cattle that M. Ortega facilitates to the Indians of the same, and the community.

2d. They can neither sell nor alienate it, nor hypothecate it, or impose upon it any rent, charge, (censo,) reversion, entail, or other burden whatsoever.

3d. They can enclose it without prejudice to the crossings, roads, and servitudes, enjoy it freely and exclusively, destining it to the use or cultivation most agreeable to them; but within a year he must build a house, which shall be inhabited.

4th. When the ownership is confirmed to them they will request the respective magistrate to place them in judicial possession thereof by virtue of this despatch, for which purpose they will mark the lines, in the limits of which they will place, besides the landmarks, some fruit or wild trees of some utility.

5th. The land of which donation is made consists of four "sitios de ganado mayor," a little more or less, according to the demonstration in the respective documents.

The magistrate who will place them in possession thereof will have it measured conformably with the ordinance, leaving the surplus that results to the nation for its convenient uses.

6th. If they shall contravene these conditions they shall lose their right to the land, and it will be denounceable by another.

In consequence, I command that these presents shall serve as a title, and holding them as firm and valid, that a record thereof be made in the respective book, and that they be delivered to the party interested for his security and other ends.

Given in Monterey, on the 9th day of November, in the year one thousand eight hundred and forty-four.

MANUEL MICHELTORENA.

MANUEL JIMENO, *Sec'y.*

Record is made of this grant in the respective book of grants, on page 11.

JIMENO.

MOST EXCELLENT SIR: José Joaquin Ortega and Edward Stokes, residents of the confines of San Diego, come before your excellency in due form and right, and appear and say:

That they have had granted to them by the superior departmental government the places called Sta. Ysabel y Valle de Pamo. Accompanying this is the title to said "parages," so that at sight your excellency may transmit it to the most excellent departmental junta, should they think well of approving of the same, as is indispensably requisite, and for the better security of our interests.

Wherefore we supplicate that your excellency will do as we request, whereby we shall receive a favor, swearing at the same time that no malicious purpose prompts this but the necessary purpose. Also admitting this on common paper, there being no stamped as corresponds.

EDWARD STOKES.
JOSÉ JOAQUIN ORTEGA.

ANGELES, *June 20th*, 1845.

Information was taken of the most excellent assembly at its session of this day, to which they ordered that the respective accompanying expedientes should be transmitted to the commission on vacant lands.

PIO PICO, *Presdt.*

AGUSTIN OLVERA, *Sec'y.*

MOST EXCELLENT SIR: The commission of vacant lands have informed themselves with all that is necessary in relation to the expedientes, *aspired K.*, in consequence of the requisites made by the

Mexican citizens, by birth José Joaquin Ortega, and by naturalization Edward Stokes, having pretension for the "parage" known by the names of Valle del Pamo y Santa Ysabel, which was granted to them by the superior departmental government in titles given them, the first dated the fifth of November, 1843, and the second on the 9th November, 1844, and the result of the equitable examination by the commissioners was this: that the forementioned grants, now made in virtue of the particular disposition of the laws, and to which we subject to the deliberation of your excellency the following proposition:

They approve of the grants made in favor of the Mexican citizens, by birth Joaquin Ortega, and by naturalization Edward Stokes, of the places called Valle del Pamo and Sta. Ysabel, granted in person by the superior departmental government, the first title having been given, dated the 5th November, 1843, and the 2d on the 9th Nov'r, 1844, and both grants comprise eight "sitios de ganado mayor," composing four sitios in each, the same having been done in exact conformity with the laws of August 18th, 1824, and the fifth article of the regulation of the 21st of November, 1828.

Commissioners' room in the city of Los Angeles, June 23d, 1845.

FRANC'O DE LA GUERRA.

IGNACIO DEL VALLE.

ANGELES, *June 25th*, 1845.

At a session of this day the most excellent departmental assembly approved of the proposition of the foregoing opinion, or deeming that the original patent should be delivered to the most excellent sñr. governor for the ends that correspond.

PIO PICO, *Presd't.*

AUGUSTIN OLVERA, *Sec'y.*

On July '45, the corresponding title was delivered to the parties interested, approved of in accordance with the decree of June 25, as above.

COVARRUBIAS, *Sec'y.*

Filed in office May 25th, 1852.

GEO. FISHER, *Sec'y.*

D.—*Juridical Possession.*

En el pueblo de San Diego, á los 29 dias del mes de No'bre, del año de mil ochocientos cuarenta y cuatro, anuente á la solicitud de los CC. José Joaq'n Ortega y Eduardo Stoc vecinos de esta municipalidad á fin de darceles la correspondiente posecion de los dos sitios Santa Ysabel y el Llano de Pamo concedidos por el gobierno de este departamento cuyo titulo accompaño en su solicitud, pasé con los testigos de asistencia a l'espresado sitio y procedi á dar la posesion indicada previa citacion de colindantes arreglandose el

referido titulo que le ha confiado por el Ex'mo S'or Gobernador Dn. Manuel Micheltorena con f'ha de nueve de No'bre, de 1844.

El C. Juan Ma. Marron Juez de 1a Ynstancia de esta demarcacion asi lo prové mande y firme ante los testigos espresados de asistencia con quienes actuo por receptoria en este papel comun por falta del sellado correspondiente segun drho. doy feé.

D. A., José Ma. Orosco, JUAN MA. MARRON.
D. A., Santiago E. Argüello.

En el sitio de Santa Ysabel á 1o de D'bre, de mil ochocientos cuarenta y cuatro yo el mismo juez pa. la practica de estas diligencias nombré 3 oficiales cordeleros á quienes hice saber su nombramiento el que aceptaron bajo juramento que otorgaron ofreciendo de tempenar fielmente su encargo lo que autorizo y firmo con los testigos de asistencia segun derecho.

D. A., José Ma. Orosco, JUAN MA. MARRON.
Santiago E. Argüello.

En el mismo dia mes y año estando en el parage de Santa Ysabel á efecto de verificar las medidas y posecion á D. José Joaq'n Ortega del sitio nombra de Santa Ysabel previos todos los requisitos de ley y estando ante mi los testigos de asistencia y cordeleros hise medir un cordel que contenia cien varas y á los estremos unos sancos de madera previa observancia y calulo por mi disposicion se tiro el cordel desde el Balcon arriba en el portesuela rumbo para San Felipe para la parte del oeste se midieron cuatro leguas de valle serca hasta el Punta de Tecomarca antes de bajan á las Huertas de los Yndios Gentiles par al rumbo del este demarcando una Cruz en un encillo alfrente de una rancheria que se contiene por linderos y en seguida se midió de norte Punto del Carriso hasta la cuesta de la salvia rumbo al sur cuatro leguas y dos mil varas. Seguidamente en el mismo auto procede á las medidas desde la mencionada cuesta de la salvia que es perteneciente a Sta. Maria de Pamo de dicho punto rumbo al norte hasta el ojo de agua del durasnito al sur dos leguas tres mil setecientos varas; para la parte del cajon rumbo oeste hasta el devisadero para la parte de San Pascual rumbo al este se midieron de travesia dos leguas trecientas varas las que se remataron en dicho punto en donde mandé se fijara una mojonera que es colindante con el pueblo de San Pascual y no habiendo manifestado ojecion alguna que suspendiera las medidas fueron concluidas las medidas del rancho de Sta. Ysabel y las de Sta. Maria de Pamo á satisfaccion del interesado el cual ordené pusiere las respectivos mojoneras en los puntos correspondientes y guedo entendido habiendo marcado aquellas en senal de posesion la que autorisa y firmo con los testigos de asist'a segun drho. doy feé.

JUAN MA. MARRON.

D. A., José Joaq'n Ortega,
Santiago E. Argüello.

Mexican citizens, by birth José Joaquin Ortega, and by naturalization Edward Stokes, having pretension for the "parage" known by the names of Valle del Pamo y Santa Ysabel, which was granted to them by the superior departmental government in titles given them, the first dated the fifth of November, 1843, and the second on the 9th November, 1844, and the result of the equitable examination by the commissioners was this: that the forementioned grants, now made in virtue of the particular disposition of the laws, and to which we subject to the deliberation of your excellency the following proposition:

They approve of the grants made in favor of the Mexican citizens, by birth Joaquin Ortega, and by naturalization Edward Stokes, of the places called Valle del Pamo and Sta. Ysabel, granted in person by the superior departmental government, the first title having been given, dated the 5th November, 1843, and the 2d on the 9th Nov'r, 1844, and both grants comprise eight "sitios de ganado mayor," composing four sitios in each, the same having been done in exact conformity with the laws of August 18th, 1824, and the fifth article of the regulation of the 21st of November, 1828.

Commissioners' room in the city of Los Angeles, June 23d, 1845.

FRANC'O DE LA GUERRA.

IGNACIO DEL VALLE.

ANGELES, *June 25th*, 1845.

At a session of this day the most excellent departmental assembly approved of the proposition of the foregoing opinion, or deeming that the original patent should be delivered to the most excellent sñr. governor for the ends that correspond.

PIO PICO, *Presd't.*

AUGUSTIN OLVERA, *Sec'y.*

On July '45, the corresponding title was delivered to the parties interested, approved of in accordance with the decree of June 25, as above.

COVARRUBIAS, *Sec'y.*

Filed in office May 25th, 1852.

GEO. FISHER, *Sec'y.*

D.—*Juridical Possession.*

En el pueblo de San Diego, á los 29 dias del mes de No'bre, del año de mil ochocientos cuarenta y cuatro, anuente á la solicitud de los CC. José Joaq'n Ortega y Eduardo Stoc vecinos de esta municipalidad á fin de darceles la correspondiente posecion de los dos sitios Santa Ysabel y el Llano de Pamo concedidos por el gobierno de este departamento cuyo titulo accompaño en su solicitud, pasé con los testigos de asistencia a l'espresado sitio y procedi á dar la posesion indicada previa citacion de colindantes arreglandose el

referido titulo que le ha confiado por el Ex'mo S'or Gobernador Dn. Manuel Micheltorena con f'ha de nueve de No'bre, de 1844.

El C. Juan Ma. Marron Juez de 1a Ynstancia de esta demarcacion asi lo prové mande y firme ante los testigos espresados de asistencia con quienes actuo por receptoria en este papel comun por falta del sellado correspondiente segun drho. doy feé.

D. A., JOSÉ MA. OROSCO, JUAN MA. MARRON.
D. A., SANTIAGO E. ARGÜELLO.

En el sitio de Santa Ysabel á 1o de D'bre, de mil ochocientos cuarenta y cuatro yo el mismo juez pa. la practica de estas diligencias nombré 3 oficiales cordeleros á quienes hice saber su nombramiento el que aceptaron bajo juramento que otorgaron ofreciendo de tempenar fielmente su encargo lo que autorizo y firmo con los testigos de asistencia segun derecho.

D. A., JOSÉ MA. OROSCO, JUAN MA. MARRON.
SANTIAGO E. ARGÜELLO.

En el mismo dia mes y año estando en el parage de Santa Ysabel á efecto de verificar las medidas y posecion á D. José Joaq'n Ortega del sitio nombra de Santa Ysabel previos todos los requisitos de ley y estando ante mi los testigos de asistencia y cordeleros hise medir un cordel que contenia cien varas y á los estremos unos sancos de madera previa observancia y calulo por mi disposicion se tiro el cordel desde el Balcon arriba en el portesuela rumbo para San Felipe para la parte del oeste se midieron cuatro leguas de valle serca hasta el Punta de Tecomarca antes de bajan á las Huertas de los Yndios Gentiles par al rumbo del este demarcando una Cruz en un encillo alfrente de una rancheria que se contiene por linderos y en seguida se midió de norte Punto del Carriso hasta la cuesta de la salvia rumbo al sur cuatro leguas y dos mil varas. Seguidamente en el mismo auto procede á las medidas desde la mencionada cuesta de la salvia que es perteneciente a Sta. Maria de Pamo de dicho punto rumbo al norte hasta el ojo de agua del durasnito al sur dos leguas tres mil setecientos varas; para la parte del cajon rumbo oeste hasta el devisadero para la parte de San Pascual rumbo al este se midieron de travesia dos leguas trecientas varas las que se remataron en dicho punto en donde mandé se fijara una mojonera que es colindante con el pueblo de San Pascual y no habiendo manifestado ojecion alguna que suspendiera las medidas fueron concluidas las medidas del rancho de Sta. Ysabel y las de Sta. Maria de Pamo á satisfaccion del interesado el cual ordené pusiere las respectivos mojoneras en los puntos correspondientes y guedo entendido habiendo marcado aquellas en senal de posesion la que autorisa y firmo con los testigos de asist'a segun drho. doy feé.

JUAN MA. MARRON.

D. A., JOSÉ JOAQ'N ORTEGA,
SANTIAGO E. ARGÜELLO.

En dicho dia mes y año habiendose concluido las diligencias de este espediente perteneciente al rancho de Sta. Ysabel y de pamo des de testimonio á D. José Joaq'n Ortega interesado en ellas para su seguridad y usos que le convengan. El co. Juan Ma. Marron, juez de 1a instancia de esta demarcacion asi lo proveyo y firmo con los testigos de asistencia segun derecho doy feé.

JUAN MA. MARRON.

D. A., José Ma. Orosco,
D. A., Santiago E. Estudillo.

En el mismo dia mes y año quedo librado á los interesados el testimonio que se refiere en el auto anterior y para constancia lo rubrique.

Filed in office Sept. 8th, 1852.

GEO. FISHER, *Secretary*.

E.—Translation of Juridical Possession.

Act of judicial possession in favor of the citizens Don José Joaquin Ortega and Eduardo Estoc, for the ranchos of Santa Ysabel and the plains of Pamo.

In the village of San Diego, on the twenty-ninth of November, in the year of our Lord one thousand eight hundred and forty-four, in attention to the solicitude of the citizens José Joaquin Ortega and Eduardo Estoc, residents of this municipality, with the object of giving them the corresponding possession of the two places, Santa Ysabel and the llano of Pamo, conceded by the government of this department, which title I accompany in his solicitude, I went with the witnesses of assistance to the above mentioned place, and proceeded to give the possession indicated; previous notice having been given to those whose land bounded upon that in question, subjecting myself to the respected title that has been confided to him by his excellency the governor, Manuel Micheltorena, with date nineteenth November, A. D. 1844.

The citizen Juan Ma. Marrow, judge of first instance, of this demarcation thus I provided, commanded and signed, before the above mentioned witnesses of assistance, with whom I performed this judicial act, as preceptor, on this common paper, for want of the corresponding seal paper, according to law, which I certify.

JUAN MA. MARROW.

Assistance,
Jose Ma. Orosco.
Assistance,
Santiago E. Arguello.

In the place called Santa Ysabel, on the first day of December, in the year of our Lord one thousand eight hundred and forty-four, I the same judge for the practicing of these proceedings, I named two official cord-bearers, whom I notified of their appointment,

and under oath they accepted of the employment, offering to discharge their duties faithfully, which I authorized, and sign with the witnesses of assistance according to law.

JUAN MA. MARROW.

Assistance,
JOSE MA. OROSCO.
Assistance,
SANTIAGO E. ARGUELLO.

On the same day, month and year, being at the place of Santa Ysabel, with the object of verifying the measurement and possession to Don José Joaquin Ortega, of the place called Santa Ysabel, previously attended to all the requisites of law, and present before me the witnesses of assistance and cord-bearers, I caused to be measured a cord one hundred varas in length, to the ends of which were fastened two wooden stakes, and after previous observation and calculation, by my disposition the cord was extended from the volcano above, in the door or gap; direction towards San Felipe, westerly, there were measured four leagues as a head line to the point of Tecomaca, before coming down to the doors of the Gentile Indians; in the direction east, making a cross on an oak tree in front of a hut or rancheria, which is considered the boundary; and consecutively there were measured from the north point of the common reed-grass to the declivity of sage south, four leagues and two thousand varas.

In continuation, and at the same time, I proceeded to the measurement from the above mentioned declivity of sage, which belongs to Santa Maria de Pamo, from said point direction to the north, to the spring of water, Peach spring; thence south two leagues, three thousand seven hundred varas, upon the side of the deep ravine or (cajon) westerly to the place where you begin to see the part of San Pascual; direction east, were measured in a transverse direction two leagues and three hundred varas, which closed and ended in said point, where I commanded to be placed a land-mark, which bounds with the village of San Pascual; and no objection having been manifested that the measurement should be suspended, the admeasurement of the rancho of Santa Ysabel was concluded, as well that of Santa Maria de Pamo, to the satisfaction of the party, and to the which I ordered the respective land-marks to be placed in the corresponding points; he understood it, I having marked them, in sign of possession, which I authorize and sign with the witnesses of assistance, according to law, which I certify.

JUAN MA. MARROW.

Assistance,
JOSE MA. OROSCO.
Assistance,
SANTIAGO E. ARGUELLO.

On the said day, month and year, having concluded the proceedings of this espediente, which relate to the rancho Santa Ysabel and Pamo, let testimony be given to Don José Joaquin Ortega, the party interested in them, for his safety and the uses to which to him may seem proper.

The citizen Juan Ma. Marrow, judge of first instance, of this demarcation, thus he decreed and signed, with the witnesses of assistance, according to law, which I certify.

JUAN MA. MARROW.

Assistance, JOSE MARIA OROSCO.
Assistance, SANTIAGO E. ARGUELLO.

On the same day, month and year, was extended to the parties interested the testimony which is mentioned in an anterior decree, and for constancy I sign with my scroll.

(Scroll.)

Filed in office, Sept. 8th, 1852.

GEO. FISHER, *Sec.*

Opinion by Commissioner Alpheus Felch.

JOSE JOAQUIN ORTEGA
vs.
THE UNITED STATES. } No. 239.

For the place called Santa Ysabel, in San Diego county, containing four square leagues of land.

The documentary evidence in this case comprises—

First. A grant to José Joaquin Ortega and Edward Stokes, issued to Governor Manuel Micheltorena, under date of November 9, 1844.

Second. A certificate of the approval of the grant, by the departmental assembly, in their session of the 25th day of June, 1845.

Third. A traced copy of the espediente from the archives, showing the proceedings in obtaining the grant.

Fourth. A testimonial of the judicial possession which was given under the grant, December 1, 1844.

These documents are all duly authenticated. Testimony is also given of the occupancy and cultivation of the premises.

Stokes, one of the grantees, died in 1847, leaving a widow and three minor children, all of whom are joined with said Ortega, the other grantee, as petitioners in this case.

This claim must be rejected for want of defined boundaries, and a segregation of the lands.

The grant is of four square leagues, which was required to be segregated by judicial measurement, within the boundaries of San José, in the Punto del Carristo, the Bolcan and Tecomaca, and the Ballenas. In the juridical measurement, an effort was made to

give possession of this rancho in connection with another, which had previously been granted to the same persons under the name of Pamo.

The lines of the land intended to be segregated by the alcalde, and assigned in satisfaction of the grant, are too uncertain and indefinte to aid in defining the premises.

Two lines seem to have been run in accordance with the description contained in the grant, which appear to have been intended as the north and west lines of the land assigned to the grantees for the rancho Santa Ysabel, but the other lines are entirely omitted. Of the lines run, one was four leagues, and the other nearly four and a half in length, and at right angles. If this survey were closed by lines parallel to these, the area would comprise nearly eighteen square leagues, instead of the four which are granted.

There is no map to aid in the case, nor is the testimony on the subject of the boundaries sufficiently definite to cure the defect.

A decree must therefore be entered, rejecting the claim.

Rejected.

Decree.

JOSE JOAQUIN ORTEGA et al.
vs.
THE UNITED STATES.

In this case, on hearing the proofs and allegations, it is adjudged by the commissioners that the claim of the said petitioners is not valid, and it is therefore decreed that their application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL,
Commissioners.

Filed in office Sept. 19th, 1854.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered, that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

OFFICE OF THE BOARD OF COMMISSIONERS
To ascertain and settle the private land claims in the State of Cal'a.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California,

do hereby certify the foregoing forty-five pages, numbered from 1 to 45, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 239 on the docket of the said board, wherein "José Joaquin Ortega et al." are the claimants against the "United States," for the place known by the name of Santa Ysabel.

In testimony whereof, I hereunto set my hand and affix my private seal (not having a seal of office) at San Francisco, California, this thirty-first day of January, A. D. 1855, and of the independence of the United States of America the seventy-ninth.

[SEAL.]

GEO. FISHER, *Sec'y.*

Appeal Notice.

United States District Court, southern district of California.

JOSE JOAQUIN ORTEGA et al., Appellants,
vs.
THE UNITED STATES, Appellees.

Notice of intention to prosecute the appeal from the decision of the board of United States land commissioners.

José Joaquin Ortega, Refugio Stokes, and Adolfo, Alfredo and Eduardo Stokes, claimants of the rancho called "Santa Ysabel," situate in the county of San Diego, in the southern district of the State of California, hereby give notice of their intention to prosecute an appeal from the decision of the board of U. S. land commissioners appointed to ascertain and settle private land claims in the State of California, rendered in their claim for the said land which was presented to the said board of commissioners, and by them rejected.

Their claim, being that which is numbered on the docket of said board of commissioners No. 239, the transcript whereof as filed in the office of the clerk of the district court of the United States for the southern district of California, is numbered No. 191.

AGUSTIN OLVERA,
Attorney in fact.

Filed March 31st, 1855.

C. E. CARR, *Cl'k.*

UNITED STATES BOARD OF LAND COMMISSIONERS
FOR THE STATE OF CALIFORNIA.

JOSE JOAQUIN ORTEGA and others,
Claimants for "Santa Ysabel,"
in San Diego county,
vs.
THE UNITED STATES.
No. 239.

Please take notice, that the claimants above named appeal from

the decision of said board of land commissioners, rendered on the 19th day of September, A. D. 1854, in favor of the United States and against the said claimants, rejecting said claim, to the United States district court for the southern district of California.

Dated San Francisco, July 6th, 1855.

HOWARD & PERLEY,
Att'ys for Claimants.

To PACIFICUS ORD, Esq.,
U. S. Dist. Att'y for said Dist.

Filed July 12th, 1855.

C. E. CARR, *Clerk.*
By A. H. CLARK, *Deputy.*

In the District Court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA AND HEIRS OF EDWARD STOKES
vs.
THE UNITED STATES.

To the Clerk of said United States District Court:

You will please take notice, that the above claimants for the rancho of Santa Ysabel, containing four square leagues, and situated in the county of San Diego, intend to prosecute the appeal from the decision of the board of United States land commissioners to ascertain and settle private land claims in the State of California rejecting said claim; said claim being numbered 239 on the docket of said board, and said claim having been rejected by said board on the 19th day of September, 1854.

Yours, &c.,
THO'S W. SUTHERLAND,
Att'y for Claimants.

Filed 21st July, 1855.

C. E. CARR, *Cl'k.*
By A. H. CLARK, *Deputy.*

Petition.

In the District Court for the southern district of California, on appeal from the U. S. Board of Land Commissioners for California.

J. J. ORTEGA and others, Claimants for "Santa Ysabel,"
vs.
THE UNITED STATES.

To the Honorable Isaac K. Ogier, Judge of the U. S. District Court for the southern dist. of California:

Your petitioners, José Joaquin Ortega, Refugio Stokes, Alfred Stokes, Edward Stokes, and Adolpho Stokes, respectfully represent

to your honor, that they are the claimants for a certain tract of land called "Santa Ysabel," situate in the county of San Diego, within the said southern district of California, granted by Governor Manuel Micheltorena to José Joaquin Ortega and Edward Stokes on the 9th day of November, A. D. 1844; which said tract of land is contained within the boundaries of San José, in the Punto del Carristo, the Bolcan, and Tecomaca and the Ballenas, containing four leagues of land, more or less; that said grant was approved by the departmental assembly on the 25th day of June, 1845; and that juridical possession thereof was given to said grantees on the first day of December, 1844; that said Edward Stokes died in the year 1847, leaving his widow, the said Refugio, and the said Alfred, Edward, and Adolpho Stokes, as minor heirs.

That said claimants have duly presented their said claim for confirmation to the board of commissioners organized under the act of Congress 3d March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California;" and that on the 19th day of September, 1854, said commissioners rendered a decree rejecting their said claim; and that an appeal has been duly taken from the decision of said commissioners to the said district court for the southern district, as will appear by the transcript of the record of said land commission, which is herewith filed.

Your petitioners pray your honor to review the decision of said commissioners, and reverse the same, and that a decree may be entered confirming the title of the said tract of land to them, the said claimants, and for all such other and further acts and proceedings as to your honor may seem just and proper in the premises.

HOWARD & PERLEY,
Attorneys for Claimants.

Filed July 12th, 1855.

C. E. CARR, *Cl'k.*
By A. H. CLARK, *Deputy.*

Summons.

UNITED STATES OF AMERICA,
Southern District of California, ss.

The President of the United States to P. Ord, Attorney of the United States for the southern district of California, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against the United States, in the district court of the United States, in and for the southern district of California, on the twelfth day of July, in the year of our Lord one thousand eight hundred and fifty-five, at the city and county of Los Angeles, in said district, by José Joaquin Ortega, Refugio Stokes, Alfred Stokes, Edward Stokes, and Adolpho Stokes, praying the said court to review, upon the grounds therein set forth, the decision of rejection by the U. S. commissioners to ascertain and settle private land claims in the State of California, of the claim of

the said José Joaquin Ortega, and Refugio, Alfred, Edward, and Adolfo Stokes, for a tract of land called "Santa Ysabel," situate in the county of San Diego, in said district, to the extent of four leagues more or less, which said claim was presented by them to said commissioners, and was by them rejected on the 19th day of September, 1854; and that you are required to appear at said court, in said city, within ten days after the service hereof, if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or that the plaintiff will apply to the court for the relief demanded therein.

In witness whereof, I have hereunto set my hand and affixed the [SEAL.] seal of the said court, this sixteenth day of August, in the year of our Lord one thousand eight hundred and fifty-five, at Los Angeles, aforesaid.

C. E. CARR, *Clerk.*

I served this summons, along with the proper copy of the petition, upon P. Ord, attorney, the U. S. att'y, by delivering to him in person a true copy at Los Angeles, in the southern district of California, on the 20th day of August, A. D. 1855.

EDWARD HUNTER,
U. S. Marshal.

Sworn to and subscribed before me this 20th of August, 1855.

C. E. CARR, *Clerk.*

Answer of District Attorney to Petition for Review.

In the District Court of the United States for the southern district of California:

LOS ANGELES COUNTY, *State of California.*

J. J. ORTEGA et al. vs. THE UNITED STATES. } No. 191.—Transcript No. 239.

To the Honorable Isaac S. K. Ogier, Judge of the District Court for the southern district of California.

The answer of Pacificus Ord, att'y of the United States for the southern district of California, on behalf of the United States, to the petition for review of José Joaquin Ortega, Refugio Stokes, Alfred Stokes, Edward Stokes and Adolpho Stokes, alleging that they claim a certain tract of land called "Santa Ysabel," situate in the county of San Diego, in the southern district of California, containing four leagues of land, more or less.

And the said attorney, answering said petition on behalf of the United States, denies generally, all and singular, each and every allegation in the said petition contained, except such as are hereinafter admitted to be true.

And the said respondent, by said attorney, further answering, says that he has no knowledge or belief that the said certain tract of land was granted to said José Joaquin Ortega and Edward Stokes, on the 9th day of November, A. D. 1844; that said tract of land is contained within the boundaries of San José, in the Punto del Carristo, the Bolcan and Tecomaca, and the Ballenas, containing four leagues of land, more or less; that said grant was approved by the departmental assembly, on the 25th June, 1845; that juridical possession thereof was given to said alleged grantees, on the 1st day of December, 1844; that said Edward Stokes died in the year 1847, leaving his widow the said Refugio, and the said Alfred, Edward and Adolpho Stokes as minor heirs.

And the said respondent, by said attorney, denies each and every one of the foregoing allegations as set forth in said petition of said claimants.

And the said respondent, further answering the said petition, admits that the said claimants presented their said claim for confirmation to the board of commissioners, and that the said board rejected the same; and that an appeal was taken from the said decision to this honorable court, as alleged in said petition of said claimants.

And the said attorney of the United States, in pursuance of the provisions of the act of Congress approved 3d March, 1851, entitled "An act to ascertain and settle the private land claims in the State of California," herein fully and distinctly sets forth the grounds on which said claim is invalid, to wit:

1st. That the said alleged grant of Manual Micheltorena, governor of California, was made in violation of the 4th article of the colonization laws of Mexico of the 18th of August, A. D. 1824, in this, that the land granted as alleged by claimants was and is within ten leagues of the seacoast, and that there is no evidence shown by claimant that the supreme general executive power of Mexico previously approved of the colonization of the public lands in Upper California, lying within ten leagues of the seacoast; and it is denied that such previous consent of said supreme general executive power of Mexico in such case was ever had.

2d. That at the date of the said alleged grant the said land claimed as aforesaid was occupied by and in the possession of the missions of the Territory of Upper California, and it was held and occupied particularly by the mission of San Diego, and could not therefore be colonized.

3d. That the said grant has not the conditions required by, and is not made in entire conformity with the laws of Mexico of the 18th of August, A. D. 1824, and the regulations for the colonization of the Territories of Mexico of 21st November, A. D. 1828.

4th. That the petition for review filed does not set forth the metes and bounds of the land claimed; that it does not in any suf-

ficient manner describe the land claimed, and that it is vague and insufficient.

5th. That the said alleged grant of Micheltorena, dated 9th of November, A. D. 1844, contains no sufficient description of the extent, locality, and boundaries of the land, so that it can be identified and surveyed. That there is no original map of the land shown. That it is vague, indefinite, and void for uncertainty.

6th. That the claimants fail to show a definitively valid title for said land.

7th. That there is no evidence that the said alleged grant of Gov'r Micheltorena, of the date of the 9th of November, 1844, was ever approved by the supreme government of Mexico.

8th. That the pretended judicial acts of survey and possession by Juan Ma. Marrow, dated the 29th of November and 1st of December, A. D. 1844, of the two places of Santa Ysabel and Santa Maria de Pamo, each for four square leagues, were not made according to the said alleged grant of said date, nor according to the ordinance or law; that it purports to be the measurement and possession of two distinct tracts of land of different names; that such tracts were not granted to the said alleged original grantees by the said alleged grant of said date; that it is not executed upon the lawful stamped paper; that it is vague, indefinite, and void.

9th. That there is no evidence that the said Juan Ma. Marrow was a judge of the first instance of San Diego on the 1st December, 1844.

10th. That the alleged act of juridical possession of the said date purports to have been made at a time previous to the alleged approbation by the departmental assembly; and the said juridical act was done in violation of the 4th condition of the said alleged grant; and the said alleged juridical act is null and void.

11th. That the said alleged original grantees having failed to perform the conditions of the said alleged grant, particularly the fourth condition, the said grantees and the said claimants lost their right to the said land, if they ever had any, and it is reverted to the original grantor.

And the said claimants not having any valid right or title to the said land claimed by them as aforesaid, the lawful right and title in and to the same was acquired by, and it now belongs to the United States by virtue of the treaty of peace, friendship, limits, and settlement with the republic of Mexico, dated at the city of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the premises considered, the said attorney, respondent in behalf of the United States, prays that the said claimants, José Joaquin Ortega, Refugio, Alfred, Edward, and Adolpho Stokes, may be served with copies of this answer, and that after due proceedings, this honorable court will decree the said claim of the said

petitioners for said land to be invalid, and to decree costs against them and general relief.

P. ORD,
Attorney of the United States
for the southern dist. of Cal'a.

Filed August 23d, 1855.

C. E. CARR, *Cl'k.*

Leave to take further testimony.

In the District Court of the United States for the southern district of California.

JOSÉ JOAQUIN ORTEGA et al., Appellants, } Case No. 191.
vs. } Transcript 239.
THE UNITED STATES, Appellees. } "Santa Ysabel."

And now, at this day, come the said appellants, and on motion of Myron Norton, their attorney, it is ordered by the court, that either party in this case have leave to take further testimony therein.

Filed Oct. 20th, 1855.

C. E. CARR, *Cl'k.*
By J. W. ROSS, *Dep'y.*

Deposition of William Williams.

J. J. ORTEGA et al., Applts., } No. 191.
vs.
UNITED STATES, Appee.

Deposition of William Williams, a witness on the part of appellants, taken before me, Charles E. Carr, U. S. commissioner, at the city of Los Angeles, on this 22d day of October, A. D. 1855, to be read in evidence on the trial of this cause. Present, P. Ord, U. S. att'y; Judge Thomas, att'y for appellants.

William Williams, being by me first duly sworn, to questions of counsel for the several parties, upon his oath, answers as follows:

Ques. What is your name, age, and place of residence?

Ans. My name is William Williams; my age thirty-six years; residence county of San Diego, at Valle de las Viejas.

Ques. Are you *are* acquainted with the rancho of Santa Ysabel, of San Diego county?

Ans. I am.

Ques. State what length of time you have been acquainted with this ranch.

Ans. I have lived on it between six and seven years. I first went there in 1840, and left in 1847. I lived on the ranch in 1840, as overseer of the mission.

Ques. Do you know, if at all, when this ranch was granted to Ortega and Stokes?

Ans. The ranch was granted to Ortega, about the latter end of 1842, or beginning of 1843, to the best of my knowledge. Stokes came in afterwards as a partner.

Ques. Do you know of judicial possession having been given to Ortega of this ranch?

Ans. Yes, it was given by Juan Ma. Marron, a justice of the peace of San Diego, at that time.

Ques. State if you assisted in the measurement and survey, at the time judicial possession was given.

Ans. I assisted.

Ques. Now state in what manner the survey was made; the points of beginning and ending, as well as the objects designating those points. (Subject-matter of this question objected to by the U. S. att'y.)

Ans. The first line was run from a cottonwood tree at the gap of the Volcan, running northwest to Tucomacca, where there was an oak tree with a cross cut in it. From these two points the distance is two leagues one thousand seven hundred varas. The next line was run from Mr. Warner's, San José, on his boundary-mark, consisting of a pile of stones, running about southwest, down to the cuesta of the salve, two leagues three thousand varas. (Answer objected to by U. S. att'y.)

Ques. Did the second line cross the first line; and if it did, at what point? (Objected to as to form and subject-matter, by U. S. att'y.)

Ans. It did cross the first line at about one hundred yards from the house, in a southwesterly direction. (Answer objected to by U. S. att'y.)

Ques. Did the first line strike the house, or run by it? (Objected to as to form and matter, by U. S. att'y.)

Ans. It ran by the house. (Answer objected to.)

Ques. How far did the line run from the house? (Objected to by U. S. att'y.)

Ans. About fifty yards. (Answer objected to by U. S. att'y.)

Ques. How far was the house from the beginning of the first line? (Objected to by the U. S. att'y.)

Ans. About three miles and a quarter, as near as I can guess. (Objected to by U. S. att'y.)

Ques. Are these points of which you speak, prominent and notorious in the community or neighborhood in which the ranch is situated? (Objected to by the U. S. att'y.)

Ans. Yes, they were prominent points. (Objected to by the U. S. att'y.)

Ques. About what is the quantity of land contained in this survey? (Question objected to by the U. S. att'y.)

Ans. About nearly five leagues. (Objected to by the U. S. att'y.)

Cross-examined by the U. S. Att'y.

Ques. What is your present occupation?
Ans. I am a farmer.
Ques. Are you a surveyor?
Ans. No.

W. WILLIAMS.

Sworn to and subscribed before me, this 22d day of Oct., A. D. 1855.

C. E. CARR, *U. S. Com'r.*

Filed Oct. 22, 1855.

C. E. CARR, *Cl'k.*

Appellee's Bill of Exceptions.

In the District Court of the United States for the southern district of California.

J. J. ORTEGA et al., Appellants, vs. THE UNITED STATES, Appellees. } No. 191.—On appeal from the United States Land Commission.

Be it remembered, that on the trial of this cause, the appellants offered in evidence the deposition of William Williams, on their behalf, taken before C. E. Carr, U. States commissioner; that at the time the United States, by their attorney, P. Ord, moved the court to strike out the following questions and answers therein, to wit:

Question. Now state in what manner the survey was made; the points of beginning and ending, as well as the objects designating these points.

Answer. The first line was run from a cottonwood tree at the gap of the Volcan, running northwest to Tecomaca, where there was an oak tree, with a cross cut on it; from these two points, the distance is two leagues one thousand seven hundred varas. The next line was run from Mr. Warner's, San José, in his boundary-mark, consisting of a pile of stones, running about southwest, down to the cuesta of the salve, two leagues three thousand varas.

Ques. Did the second line cross the first line; and if it did, at what point?

Ans. It did cross the first line at about one hundred yards from the house, in a southwesterly direction.

Ques. Did the first line strike the house, or run by it?

Ans. It ran by the house.

Ques. How far did the line run from the house?

Ans. About fifty yards.

Ques. How far was the house from the beginning of the first line?

Ans. About three miles and a quarter, as near as I can guess.

Ques. Are these points of which you speak prominent and noto-

rious in the community or neighborhood in which the ranch is situated?

Ans. Yes, they were prominent points.

Ques. About what is the quantity of land mentioned in the survey?

Ans. About nearly five leagues;—

On the ground that the said evidence is secondary and parol, and contradicts and varies essentially the terms of the alleged juridical act of possession and survey of the land claimed, previously introduced in evidence by the claimants, and that the questions were leading and illegal; all which objections were overruled by the court, and the said evidence admitted.

Wherefore the United States, by their said attorney, present this their bill of exceptions, and pray that the same may be signed and sealed by the court.

[SEAL.]

Filed January 11th, 1856.

C. E. CARR, *Cl'k.*

Nunc pro tunc.

Motion for new trial and affidavit.

In the United States District Court for the southern district of California.

JOSE JOAQUIN ORTEGA et al., Appellants,
vs.
THE UNITED STATES, Appellees.
} Case 191.

And now, at this day, come the above named appellants and move the court to grant a new trial in the above entitled cause, and in support of this their motion they rely on the affidavit hereto annexed.

MYRON NORTON,
Att'y for App'lts.

STATE OF CALIFORNIA,
County of Los Angeles, ss.

Myron Norton, being duly sworn, deposes and says, that he is one of the attorneys for the appellants in the above entitled cause, and that he is acquainted with the facts in this case; and this deponent believes, from his knowledge of the facts in this case, that the said appellants will be able to prove the boundaries of the rancho called "Santa Ysabel;" and this deponent further says, that he believes it to be necessary for the interests of the said appellants in this case that further testimony should be had, and a survey of the said rancho made.

MYRON NORTON.

Sworn to and subscribed this 5th day of February, 1856, before me.

C. E. CARR, *Cl'k.*

Filed February 5th, 1856.

C. E. CARR, *Cl'k.*

Index of Transcript.

In the District Court of the United States for the southern district of California.

JOSE JOAQUIN ORTEGA et al., Appellants, vs. THE UNITED STATES, Appellees. } Case No. 191.—Santa Ysabel.—Index of Transcript.

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" 4 " 5. Supplemental petition to commissioners.
" 5 " 6. Deposition of Abel Stearns.
" 7 " 8. " " Andres Pico.
" 8 " 9. " " John J. Warner.
" 9 " 10. " " John J. Warner.
" 10 " 13. " " Juan Forster.
" 15 " 22. Expediente in Spanish.
" 23 " 24. Original title in Spanish, annexed to the deposition of Abel Stearns.
" 25. Approval of the departmental assembly of the ranchos of "Santa Ysabel" and "Valle de Pamo."
" 27 " 33. Translation of expediente.
" 33 " 35. Translation of approval of assembly.
" 37 " 38. Testimonial of juridical possession in Spanish.
" 39 " 42. Translation of testimonial of juridical possession.
" 43 " 44. Opinion of the commissioners.
" 44. Decree rejecting the claim.

Filed January 11th, 1856.

C. E. CARR, *Cl'k.*

Deposition of J. J. Warner.

J. J. ORTEGA et al., Appellants, vs. THE UNITED STATES, Appellees. } No. 191.

Deposition of J. J. Warner, a witness on the part of appellant in the above case, taken at Los Angeles this 16th day of February, A. D. 1856, before Chas. E. Carr, U. S. com'r for the State of California.

Present, P. Ord, United States attorney; Norton and Olvera for appellants.

J. J. Warner, being duly sworn, deposes and says:

Ques. What is your name, age, and place of residence?

Ans. J. J. Warner; 48 years; San Diego.

Ques. Do you know the ranch claimed in this case, and called San Ysabel; and if yea, in what county is it situated, and how long have you known it?

Ans. I know it; it is situated in the county of San Diego, and I have been conversant with it since 1844.

Ques. Do you know the place or rancho called San José; and if yea, in what direction, and how far is it from the rancho of Santa Isabel?

Ans. I do know it; it adjoins Santa Isabel, lying on the north and northeast sides.

Ques. Is there or not a place or point in the rancho of San José called "El Carrecito" or "Las Carecitos;" and if so, describe its location relative to the rancho of Santa Isabel.

Ans. There is such a locality; it is the most southern extremity of the lands of San José; is situated north of the house, on Santa Isabel, (which house occupies nearly a central position in said rancho, referring solely to east and west,) and distant about three miles from said house.

Ques. Do you or not know a place or locality called "El Volcan?" If yea, state its situation or position relative to the rancho of Santa Ysabel.

Ans. I know said place; it is situated very nearly east from the houses before referred to; I have known it as the eastern limits of, and included in, the rancho of Santa Ysabel. (Objected to by U. S. att'y.)

Ques. Do you or not know a place or rancho called Tecomaca? If yea, state its locality and position relative to the rancho of Santa Ysabel.

Ans. Westerly from the house before referred to, and upon table-land considerably elevated above the lands in the immediate vicinity of the said house, there are two Indian villages, lying in and about the same direction from the house, and distant therefrom, the one about four miles, and the other six; to one or the other of which the name Tecomaca (Indian wood) has been given; I do not know to which of the two villages the name is applied, having always known them by the names of their respective chiefs or captains; these two villages are about two miles apart.

Ques. Do you or not know a place or locality called "La Ballena?" If yea, state its situation or position relative to the rancho of Santa Isabel.

Ans. I do know it; it is a small valley, lying southwesterly from the aforesaid house, and distant eight or ten miles; I have always known it as being about the western limits of Santa Isabel. (Objected to by U. S. att'y.)

Ques. *I* there or not any well known and recognised point or place south of the lands called Santa Isabel?

Ans. On the south of Santa Ysabel are the lands of "Cuyomaca;" I am not conversant with that side of the rancho.

Ques. Are or are not the points and places called "San José," "El Punto de Caresito," El Volcan, Tecomaca, La Ballena and Cuyomaca, well known and recognised by those acquainted with those places, or residing in the vicinity; and if so, how long have they been thus known and recognised?

Ans. They are and have been so known by me, with the exception of the Indian village, ever since my acquaintance with that section of country.

Ques. Are or are not those points or places natural and permanent objects?

Ans. They are, all except the Indian village.

Ques. Does or does not the said Indian villages now stand where they stood in 1844?

Ans. They do; have been ever since my acquaintance with the country, and are now inhabited, having some gardens and orchards in and adjoining them.

Ques. Does or does not the rancho called Santa Isabel lie within these natural objects and places which you have described? (Objected to by U. S. att'y.)

Ans. I have always understood it to be comprised within said natural objects and places.

Ques. Is or is not the rancho of Santa Isabel, lying within the natural objects above mentioned, the same land or rancho heretofore occupied by José Joaquin Ortega and Edward Stokes? (Objected to by U. S. att'y.)

Ans. It is the same rancho.

Cross-examined by U. S. Att'y.

Ques. What is the extent of the land or place as known by the name of Santa Isabel in the year 1844, when you first knew it?

Ans. From easterly to westerly I should judge it to be about fourteen or fifteen miles; I never was upon its southern line, and do not know its extent from northwest to southeast, or from north to south.

Ques. Can you say whether it is in extent, from a northerly to a southerly direction, more or less than ten leagues?

Ans. I am unable to say, from the same cause stated in the preceding answer, but should judge that it is not thirty miles from its northern to its southern limits.

Ques. Should you judge it to be twenty-five miles?

Ans. I should not; I doubt whether it is even twenty miles, but this is almost conjecture.

Ques. Is this place of Santa Isabel a plain valley, or is it mountainous?

Ans. All three of them; the plains are diminutive, valleys numerous and mountains abundant.

Ques. What is the name of the tract of country (if it has any particular name) lying to the south of Santa Isabel?

Ans. Cuyomaca, Valle de las Viejas, and San Vicente are the only tracts, the names of which I now recollect.

Ques. Which one of these places on the south is nearest to Santa Isabel?

Ans. I think there can be but little difference between Cuyomaca and San Vicente, the one being on the southeast and the other on the southwest of Santa Ysabel; the first may adjoin, but I don't know; the second is separated topographically by sterile and broken mountainous country of some five or six miles in width.

Ques. Did José Joaquin Ortega and Stokes ever live in Santa Ysabel with their families? and if yea, state when and for what length of time.

Ans. They did; their families came there, I think, some time during the year 1845, and remained there until the fall of 1846.

Ques. Were there any improvements on this place of Santa Ysaabel in 1844, which belonged to the mission? if yea, state generally what they were.

Ans. There were large and extensive adobe buildings, a large adoba corral, and two small vineyards, with fruit trees.

Ques. Does any person or persons reside there at the present time? and if yea, state their name or names.

Ans. There are persons residing there; Geo. McKinstry, Mr. Dalton, and some others whose names I do not recollect.

Ques. Are these persons mentioned as residents in this place, employees or tenants of the claimants in this case?

Ans. They are not.

Ques. Under whom or by what right do they occupy the place?

Ans. George McKinstry, as the agent of Justus McKinstry, a purchaser from Ortega; Dalton, as employee of George McKinstry's; the others as hangers on about the place.

Ques. How long has Justus McKinstry had possession of this place, claiming under Ortega?

Ans. Five years, a little more or less.

Direct Examination resumed.

Ques. For what cause or reason did Ortega and Stokes leave the rancho of Santa Isabel in 1846?

Ans. The danger which was apprehended from the Indians.

Ques. Was there or not arising an insurrection of the Indians about the time that they left?

Ans. There was.

Cross-examined by U. S. Att'y.

Ques. How long did that rising or insurrection continue?

Ans. For a month or more.

Ques. Did Ortega or Stokes ever go back with their families to reside on the place of Santa Ysabel?

Ans. They did not.

Ques. What was the place of their domicil after they left Santa Ysabel?

Ans. San Diego, that of Stokes; Sonora, that of Ortegas.

Direct Examination resumed.

Ques. By whom was the insurrection of the Indians raised?

(Objected to by U. S. att'y.)

Ans. Ricardo Urivas, a Californian.

Ques. Was or was not this rising or insurrection of the Indians about the time of the arrival of Gen. Kearney with American troops in California during the war with Mexico?

(Objected to by U. S. att'y.)

Ans. A short time previous to the arrival of Kearney, and during the war, this insurrection of the Indians under Urivas was against the Americans.

J. J. WARNER.

Sworn to and subscribed this 18th of Feb'y, 1856, before me.

C. E. CARR,
U. S. Com'r.

Filed Feb'y 18th, 1856.

Motion and affidavit for continuance.

United States District Court for the southern district of California.

José J. Ortega et al., Appellants,
vs.
The United States, Appellees.
} No. 191.

And now, on this day, comes Myron Norton, one of the attorneys of record in this case, and moves the court to grant a continuance of the case until the next term of the court, for the reasons set forth in the affidavit hereunto annexed.

MYRON NORTON,
Att'y for Appellant.

Personally appeared before me Agustin Olvera, and being duly sworn, deposes and says, that the claim of José Joaquin Ortega et al. for the rancho known by the name of Santa Isabel was rejected by the honorable U. S. dist. court for the southern dist. of California on the 4th day of this present month, not, (as the court says in its opinion,) for any want of proof as to the genuineness of the title to said rancho, but for want of sufficient evidence as to its locality and proper boundaries. That the court aforesaid, on the fifth of this present month, re-opened the case and granted a new trial. The affiant further says, that he believes that abundant

evidence does exist, and can be obtained, to prove the locality and proper boundaries of said rancho of Santa Ysabel, as called for in the grant. That since the re-opening of this case, the testimony of some of the necessary witnesses to establish said locality and boundaries has been taken before the proper commissioner, but that most of said witnesses reside in the county of San Diego, and that it has been, and will be, impossible to procure their attendance during this term of the court, but that the evidence of said witnesses can be obtained before the next term.

AGUSTIN OLVERA.

Sworn to and subscribed before me this 29th day of Febr'y, A. D. 1856.

C. E. CARR, *U. S. Com'r.*

Filed Febr'y 29th, 1856.

C. E. CARR, *Cl'k.*

Deposition of Wm. H. Leighton.

JOSÉ JOAQUIN ORTEGA et al., Appellants, vs. THE UNITED STATES, Appellees. } Case No. 191. Santa Ysabel.

Deposition of William H. Leighton, taken before C. Sims, United States commissioner for the district of California, at the United States court-house, in the city of Los Angeles, on 16th day of March, A. D. 1857, at 2 o'clock p. m. of said day, on behalf of the appellants, by the agreement of the parties, to be used as testimony in a certain cause now pending in the U. S. dist. court for the southern district of California, being case No. 191 on the docket of said court, wherein José Joaquin Ortega et al. are appellants, and the United States are appellees.

Present, Agustin Olvera, attorney in behalf of the appellants, and C. E. Thorn present in behalf of appellees.

Questions by the Att'y of appellants.—Direct Examination.

Ques. What is your name, age, and place of residence?

Ans. My name is William H. Leighton; I am 28 years of age, and reside in San Diego.

Ques. What is your profession and actual occupation?

Ans. I am civil engineer.

Ques. Are you in the employment of the county of San Diego?

Ans. I have been acting at different periods in the last year as the county surveyor of San Diego county.

Ques. Do you know any place distinguished or known by the name of Santa Ysabel; and if so, where is it situated?

Ans. I do know the ranch; it is situated northeast about sixty miles from the town of San Diego.

Ques. Do you this ranch practically by passing over it, or by travelling along the public road?

Ans. I know it by having made a survey of it, as acting county surveyor of San Diego county.

Ques. Do you know, besides this ranch, any other ranch in San Diego county by the same name?

Ans. I do not.

Ques. Do you know from your own knowledge the lines of this ranch, Santa Ysabela? and if so, give its boundaries or lines.

Ans. I do know the lines; I ran the lines in accordance with the calls of the grant, as given me by Don José Joaquin Ortega, and also in accordance with the statements of persons pretending to know the boundaries of the ranch; I did this at the request of Don José Joaquin Ortega. The lines of the ranch are as follows: commencing at an alamo tree near a point called Valley of Volcan, and running in a direction north 54 degrees west 9 miles, two thousand nine hundred and seventy feet to a place called Carrecito; from thence south 85 degrees west one thousand seven hundred and eighty-two feet to an oak tree with a cross marked on it, said tree being situated in a place called Tecomaca, and close to an Indian rancheria; from thence running south 22 degrees east 9 miles 1,054 feet to a large white rock having three small stones upon it, said rock being situated in the cañada called Ballena; from thence running north 66 degrees east 8 miles 4,840 feet to the place of beginning. This plan, marked Y, I present as a full and correct plot of the survey made by me of the said rancho, Santa Ysabel.

Ques. Is the plan or plot of the tract of land hereunto annexed, and marked "Y," the same that you made when you surveyed the ranch of Santa Ysabel?

Ans. Yes; as stated above in my last answer.

Ques. Are the lines that you have described in your answer above, and which are marked out on the plot annexed to this deposition marked "Y," natural boundaries; and if so, are they easily recognised or distinguished?

Ans. Yes; they are easily distinguished and well known; it is the best defined ranch with regard to its boundaries that I have seen in San Diego county.

Ques. Do you know if this ranch is near the ranch Valle de Pamo; and if so, what is the distance from it, and in what direction does it lie therefrom?

Answer. It is near the ranch called Valle de Pamo, and situated in a northerly direction from it, and distant from it about a mile.

WILLIAM H. LEIGHTON.

I, C. Simms, of the city and county of Los Angeles, and State of California, commissioner to take affidavits and bail in civil cases pending in the courts of the United States, and depositions, under

the acts of Congress approved September 24th, A. D. 1789, February 20th, A. D. 1812, and March 1st, A. D. 1812, by virtue of my office of clerk of the United States of the southern district of California, and by special appointment by the United States circuit court for the State and circuit of California, do hereby certify that the foregoing deposition of William H. Leighton was taken before me on the 16th day of March, A. D. 1857, according to the of the said , at the United States district court-house, in the city of Los Angeles and State of California, in behalf of the appellants; that the said William H. Leighton was by me duly sworn according to law as a witness in said cause in the caption of this deposition mentioned, and after so sworn, his testimony was by me reduced to writing in his presence; and after having been me carefully read to him, and by him corrected in every particular as he desired, was by him signed in my presence.

In witness whereof I hereunto set my hand and private seal (having no seal of office) this 16 day of March, A. D. 1857.

[SEAL.] C. SIMS,
United States Commissioner.

Filed this 16th day of March, 1857.

C. SIMS, *Cl'k.*
Pr. J. H. COLEMAN, *Dep.*

[*For map see original, between pages* 77 *and* 78.]

Decree.

In the District Court of the United States for the southern district of California, December term, A. D. 1857.

José Joaquin Ortega et al., Appellants, vs. The United States, Appellees. } Case No. 191. Rancho Santa Ysabel. Trânscipt 239.

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the proceedings and decision of said board, and the papers and evidence upon which said decision was founded, and the other evidence adduced before this court, and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for the respective parties having been heard, it is ordered, adjudged and decreed, that the decision of the said board of land commissioners be, and the same is hereby reversed, and that the claim of appellants is good and valid in law; and the same is hereby confirmed to them as follows: The lands of which confirmation is hereby made is situated in the county of "San